IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. JAMECO BELL, Defendant.	No. CR 09-4033-MWB **INSTRUCTIONS TO THE JURY**

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INSTRUCTION NO. 1 - INTRODUCTION

Members of the jury, I am giving you these Instructions to help you better understand the trial and your role in it. Consider these instructions, together with all written and oral instructions that I may give you during or at the end of the trial, and apply them as a whole to the facts of the case.

As I explained during jury selection, in an Indictment, a Grand Jury charges defendant Jameco Bell with a "marijuana conspiracy" offense. As I also explained during jury selection, an Indictment is simply an accusation. It is not evidence of anything. The defendant has pled not guilty to the crime charged against him, and he is presumed to be innocent of that offense unless and until the prosecution proves his guilt on that offense beyond a reasonable doubt.

Your duty is to decide from the evidence whether the defendant is not guilty or guilty of the charge against him. You will find the facts from the evidence. You are the sole judges of the facts, but you must follow the law as stated in these instructions, whether you agree with it or not.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, based solely on the evidence, your common sense, and the law in these instructions. Do not take anything that I have said or done during jury selection or that I may say or do during the trial as indicating what I think of the evidence or what I think your verdict should be. Similarly, do not conclude from any ruling or other comment that I have made or may make that I have any opinions on how you should decide the case.

Please remember that only defendant Jameco Bell, not anyone else, is on trial here. Also, remember that he is on trial *only* for the offense charged against him in the Indictment, not for anything else.

You must return a unanimous verdict on the charge against the defendant.

INSTRUCTION NO. 2 - PRELIMINARY MATTERS

Before I turn to specific instructions on the offense charged in this case, I must explain some preliminary matters.

"Elements"

The "marijuana conspiracy" offense consists of "elements," which the prosecution must prove beyond a reasonable doubt against each defendant. I will summarize in the following instructions the elements of the offense with which the defendant is charged.

Timing

The Indictment alleges that the offense was committed "from about" one date "up to and including" another date. The prosecution does not have to prove with certainty the exact date of a charged offense. It is sufficient if the evidence establishes that the charged offense occurred within a reasonable time of the dates alleged for that offense in the Indictment.

Marijuana

The offense charged in this case allegedly involved "marijuana." "Marijuana" is a "controlled substance" regulated under federal law.

"Knowledge" and "intent"

The elements of the charged offense may require proof of the defendant's "knowledge" or "intent." The defendant's mental state must be proved beyond a reasonable doubt. It is seldom, if ever, possible to determine directly the operations of the human mind. Nevertheless, "knowledge" and "intent" may be proved like

anything else, from reasonable inferences and deductions drawn from the facts proved by the evidence.

An act was done "knowingly" if the defendant was aware of the act and did not act through ignorance, mistake, or accident. The prosecution is not required to prove that the defendant knew that his acts or omissions were unlawful.

An act was done "intentionally" if the defendant did the act voluntarily, without coercion, and not because of ignorance, mistake, accident, or inadvertence.

"Possession," "Distribution," and "Delivery"

The law recognizes several kinds of "possession." A person was in "actual possession" of an item if the person knowingly had direct physical control over that item at a given time. A person was in "constructive possession" of an item, even if the person did not have direct physical control over that item, if the person knew of the presence of the item and had control over the place where the item was located or had control or ownership of the item itself. Thus, mere presence of a person where an item is found or mere proximity of a person to the item is insufficient to establish a person's "possession" of that item. Similarly, a person's mere association with others who possess an item, such as drugs, is insufficient to show that person's constructive possession of that item. Rather, the person must know of the presence of the item at the same time that he or she has control over the item or the place where it was found. If one person alone had actual or constructive possession of an item, possession was "sole." "Constructive possession" can be established by a showing that the item was seized at the person's residence or from

the person's vehicle, if the person knew of the presence of the item at the residence or in the vehicle. On the other hand, a person's mere presence as a passenger in a vehicle from which the police recovered the item does not establish that person's constructive possession of the item. If two or more persons shared actual or constructive possession of an item, possession was "joint."

The term "distribute" means to deliver an item, such as marijuana, to the actual or constructive possession of another person. The term "deliver" means the actual, constructive, or attempted transfer of an item, such as marijuana, to the actual or constructive possession of another person. It does not require proof of a "sale" of marijuana. Therefore, it is not necessary that money or anything of value changed hands for you to find that there was a "conspiracy" to distribute or to possess with intent to distribute marijuana.

* * *

I will now give you more specific instructions about the offense charged in the Indictment.

INSTRUCTION NO. 3 - THE MARIJUANA CONSPIRACY

The Indictment charges the defendant with a "marijuana conspiracy." For you to find the defendant guilty of this "marijuana conspiracy" offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements against him:

***One*, from a date unknown but in or about 2006 and continuing through about December 2008, two or more persons reached an agreement or understanding to commit one or more of the offenses alleged to be objectives of the conspiracy.**

> The prosecution must prove that the defendant reached an agreement or understanding with at least one other person. The other person or persons do not have to be defendants, or named in the Indictment, or otherwise charged with a crime. However, you must find beyond a reasonable doubt that there was at least one other conspirator besides the defendant.
>
> The "agreement or understanding" need not have been an express or formal agreement, or have been in writing, or have covered all the details of how it was to be carried out. Also, the members need not have directly stated between themselves the details or purpose of the scheme. The agreement may be inferred from all of the circumstances and the conduct of the alleged participants.
>
> The Indictment charges that the conspirators agreed to commit the following offenses as "objectives" of the conspiracy: (1) distributing marijuana; and (2) possessing with intent to distribute marijuana. The prosecution does not have to prove that the conspirators agreed to commit

both of these offenses, only that they agreed to commit one or more of these offenses.

To assist you in determining whether or not there was an agreement to commit a particular "objective," you should consider the elements of that "objective." The elements of the ***"distributing" objective*** are the following: (1) on or about the date alleged, a person intentionally distributed marijuana to another; and (2) at the time of the distribution, the person knew that what he or she was distributing was a controlled substance. The elements of the ***"possessing with intent to distribute" objective*** are the following: (1) on or about the date alleged, a person possessed marijuana; (2) the person knew that he or she was, or intended to be, in possession of a controlled substance; and (3) the person intended to distribute some or all of the controlled substance to another person.

Keep in mind, however, that to prove the "marijuana conspiracy" offense, the prosecution must only prove that there was an *agreement* to commit one or more of the objectives alleged. The prosecution is *not* required to prove that any objective *was actually committed*. Thus, the question is whether the defendant *agreed* to commit any objective alleged, not whether that defendant or someone else *actually committed* any such offense.

If there was no agreement, there was no conspiracy. Similarly, if you find that there was an agreement, but you find that the defendant did not join in that agreement, or did not know the purpose of the agreement, then you cannot find the defendant guilty of the "marijuana conspiracy" charge.

***Two*, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect.**

> Evidence that a person was merely present at the scene of an event, or merely acted in the same way as others, or merely associated with others does not prove that the person joined in an agreement or understanding. A person who had no knowledge of a conspiracy, but who happened to act in a way that advanced some purpose of one, did not thereby become a member. Similarly, the defendant's mere knowledge of the existence of a conspiracy, or mere knowledge that an objective of the conspiracy was being contemplated or attempted, is not enough to prove that he joined in the conspiracy; rather, the prosecution must establish that there was some degree of knowing involvement and cooperation by the defendant.
>
> On the other hand, a person may have joined in an agreement or understanding, as required by this element, without knowing all the details of the agreement or understanding, and without knowing who all the other members were. Further, it is not necessary that a person agreed to play any particular part in carrying out the agreement or understanding. A person may have become a member of a conspiracy even if that person agreed to play only a minor part in the conspiracy, as long as that person had an understanding of the unlawful nature of the plan and voluntarily and intentionally joined in it.
>
> In deciding whether the defendant voluntarily and intentionally joined in the agreement, you must consider only evidence of the defendant's own actions and statements. You may not consider actions and pretrial statements of others, except to the extent that pretrial

> statements of others describe something that the defendant said or did.

***Three*, at the time that the defendant joined in the agreement or understanding, he knew the purpose of the agreement or understanding.**

> The defendant must have known of the existence and purpose of the conspiracy. Without such knowledge, the defendant cannot be guilty of conspiracy, even if his acts furthered the conspiracy. You may not find that the defendant knew the purpose of the agreement or understanding if you find that he was simply careless. A showing of negligence, mistake, or carelessness is not sufficient to support a finding that the defendant knew the purpose of the agreement or understanding.

If the prosecution fails to prove these elements beyond a reasonable doubt as to the defendant, then you must find him not guilty of the "marijuana conspiracy" offense charged in the Indictment.

In addition, if you find the defendant guilty of this "marijuana conspiracy" offense, then you must also determine beyond a reasonable doubt the quantity of any marijuana actually involved in the conspiracy for which he can be held responsible, as explained in Instruction No. 4.

INSTRUCTION NO. 4 - QUANTITY OF MARIJUANA

If you find the defendant guilty of the "marijuana conspiracy" charge, then you must determine beyond a reasonable doubt the total quantity range of the marijuana involved in the offense for which the defendant can be held responsible, as explained below.

The defendant is responsible for the quantities of any marijuana that he actually distributed or possessed with intent to distribute or agreed to distribute or to possess with intent to distribute. He is also responsible for any marijuana that fellow conspirators actually distributed or possessed with intent to distribute or agreed to distribute or to possess with intent to distribute, if you find that the defendant could have reasonably foreseen, at the time that he joined the conspiracy or while the conspiracy lasted, that these acts were a necessary or natural consequence of the conspiracy.

The defendant is responsible for quantities of marijuana involved in the conspiracy before he joined the conspiracy, if he could have reasonably foreseen that the conspiracy involved those quantities of marijuana. The defendant is also responsible for the amounts of marijuana involved in the conspiracy after he joined the conspiracy until and unless he withdraws from the conspiracy. In order to withdraw from a conspiracy, and avoid liability for additional amounts of marijuana, the defendant must demonstrate that he took affirmative action to withdraw from the conspiracy by making a clean breast to the authorities or by communicating his

withdrawal in a manner reasonably calculated to reach his coconspirators. Simply ceasing to be an active participant in the conduct of the conspiracy alone is not enough to establish a withdrawal from the conspiracy.

If you find the defendant guilty of the "marijuana conspiracy," then you must indicate in the Verdict Form whether that defendant can be held responsible for 100 kilograms or more of marijuana, 50 kilograms or more but less than 100 kilograms of marijuana, or less than 50 kilograms of marijuana.

In making your determination of quantity as required, it may be helpful to remember that one pound is approximately equal to 453.6 grams (0.4536 kilograms) and that one ounce is approximately equal to 28.34 grams (0.02834 kilograms). To put it the other way around, one kilogram is approximately equal to 2.2 pounds, and 0.028 of a kilogram is approximately equal to one ounce.

INSTRUCTION NO. 5 - PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

The defendant is presumed innocent and, therefore, not guilty. This presumption of innocence requires you to put aside all suspicion that might arise from the defendant's arrest or charge or the fact that he is here in court. The presumption of innocence remains with the defendant throughout the trial. That presumption alone is sufficient to find the defendant not guilty. The presumption of innocence may be overcome as to the defendant only if the prosecution proves, beyond a reasonable doubt, *all* of the elements of the charged offense against him.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. The burden never shifts to a defendant to prove his innocence. Therefore, the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses who are called to testify by the prosecution. Similarly, if the defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict.

Unless the prosecution proves beyond a reasonable doubt that the defendant has committed each and every element of the offense charged against him, you must find the defendant not guilty of that offense.

INSTRUCTION NO. 6 - REASONABLE DOUBT

A reasonable doubt may arise from the evidence produced by either the prosecution or the defendant, keeping in mind that no defendant ever has the burden or duty of calling any witnesses or producing any evidence. A reasonable doubt may also arise from the prosecution's lack of evidence. A reasonable doubt is a doubt based upon reason and common sense. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important transactions of life. On the other hand, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 7 - DEFINITION OF EVIDENCE

Your verdict must be based only on the evidence presented in this case and these and any other instructions that may be given to you during the trial. Evidence is:

1. Testimony.

2. Exhibits that are admitted into evidence.

3. Stipulations, which are agreements between the parties. If the parties stipulate that certain facts are as counsel states them, then you must treat those facts as having been proved.

Evidence may be "direct" or "circumstantial." The law makes no distinction between the weight to be given to direct and circumstantial evidence. The weight to be given any evidence is for you to decide.

A particular item of evidence is sometimes admitted only for a limited purpose, and not for any other purpose. I will tell you if that happens, and instruct you on the purposes for which the item can and cannot be used.

The fact that an exhibit may be shown to you does not mean that you must rely on it more than you rely on other evidence.

The following are not evidence:

1. Statements, arguments, questions, and comments by the lawyers.

2. Objections and rulings on objections.

3. Testimony that I tell you to disregard.

4. Anything that you see or hear about this case outside the courtroom.

The weight of the evidence is not determined merely by the number of witnesses testifying as to the existence or non-existence of any fact. Also, the weight of the evidence is not determined merely by the number or volume of documents or exhibits. The weight of the evidence depends upon its quality, which means how convincing it is, and not merely upon its quantity. For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict the witness's testimony. Also, you are free to disbelieve the testimony of any or all witnesses. The quality and weight of the evidence are for you to decide.

INSTRUCTION NO. 8 - CREDIBILITY

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the witness's drug or alcohol use or addiction, if any, the general reasonableness or unreasonableness of the testimony, and the extent to which the testimony is consistent or inconsistent with any other evidence. In deciding whether or not to believe a witness, keep in mind that people sometimes see or hear things differently and sometimes forget things. You need to consider, therefore, whether a contradiction results from an innocent misrecollection or sincere lapse of memory, or instead from an intentional falsehood or pretended lapse of memory.

If the defendant testifies, you should judge his testimony in the same manner in which you judge the testimony of any other witness.

Similarly, just because a witness works in law enforcement or is employed by the government does not mean you should give any more or less weight or credence to that witness's testimony than you give to any other witness's testimony.

You may also hear expert testimony. You should consider expert testimony just like any other testimony. You may believe all of what an expert says, only part of it, or none of it.

If earlier statements of a witness are admitted into evidence, they will not be admitted to prove that the contents of those statements are true, unless I tell you otherwise. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness, and, therefore, whether they affect the credibility of that witness.

You may hear evidence that one or more witnesses have each been convicted of a crime. You may use that evidence only to help you decide whether or not to believe these witnesses and how much weight to give their testimony.

You may hear evidence that a defendant has previously been convicted of one or more crimes. You may use that evidence only to help you decide whether to believe that defendant's testimony and how much weight to give it. That evidence does not mean that the defendant committed the crime charged here, and you must not use that evidence as proof of the crime charged in this case. However, if you find beyond a reasonable doubt that a defendant carried out the acts involved in an offense charged in this case, then you may consider evidence that the defendant has previously been convicted of a similar offense to help you determine that defendant's motive, knowledge, or intent in committing the acts involved in the offense charged here. You cannot, however, convict a person of an offense charged in this case simply because he or she may have committed a similar offense in the past.

You should treat the testimony of certain witnesses **with greater caution and care than that of other witnesses**:

1. You may hear evidence that one or more witnesses are testifying pursuant to plea agreements and/or hope to receive reductions in their sentences in return for their cooperation with the prosecution in this case. If the prosecutor handling such a witness's case believes the witness has provided "substantial assistance," the prosecutor can file a motion to reduce the witness's sentence. Also, one or more witnesses may be subject to a mandatory minimum sentence, that is, a sentence that the law provides must be of a certain minimum length. If the prosecutor handling such a witness's case believes that the witness has provided substantial assistance, that prosecutor can file a motion to reduce that witness's sentence below the mandatory minimum. The judge has no power to reduce a sentence for a witness for substantial assistance unless the prosecutor files a motion requesting such a reduction. If the prosecutor files a motion for reduction of sentence for substantial assistance, then it is up to the judge to decide whether to reduce the sentence of that witness at all, and if so, how much to reduce it, but the prosecutor will recommend the specific reduction that the prosecutor believes is appropriate. You may give the testimony of such witnesses such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by the witness's hope of receiving a reduction in sentence is for you to decide.

2. You may also hear testimony from one or more witnesses that they participated in one or more of the crimes charged against the defendant. Their testimony will be received in evidence and you may consider it. You may give the testimony of such a witness such weight as you think it deserves. Whether or not the testimony of such a witness may be influenced by the witness's desire to please the prosecutor or to strike a good bargain with the prosecutor about the witness's own situation is for you to decide.

More generally, it is your exclusive right to give *any* witness's testimony whatever weight you think it deserves.

INSTRUCTION NO. 9 - BENCH CONFERENCES AND RECESSES

During the trial it may be necessary for me to talk with the lawyers out of your hearing, either by having a bench conference here while you are present in the courtroom, or by calling a recess. Please be patient, because while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence, to avoid confusion and error, and to save your valuable time. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

INSTRUCTION NO. 10 - OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon. If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself. Also, the lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible. Do not hold it against a lawyer or the party the lawyer represents because the lawyer has made objections.

INSTRUCTION NO. 11 - NOTE-TAKING

If you want to take notes during the trial, you may, but be sure that your note-taking does not interfere with listening to and considering all the evidence. If you choose not to take notes, remember it is your own individual responsibility to listen carefully to the evidence.

Notes you take during the trial are not necessarily more reliable than your memory or another juror's memory. Therefore, you should not be overly influenced by the notes.

If you take notes, do not discuss them with anyone before you begin your deliberations. At the end of each day, please leave your notes on your chair. At the end of the trial, you may take your notes out of the notebook and keep them, or leave them, and we will destroy them. No one will read the notes, either during or after the trial.

You will notice that we have an official court reporter making a record of the trial. However, we will not have typewritten transcripts of this record available for your use in reaching your verdict.

INSTRUCTION NO. 12 - CONDUCT OF THE JURY DURING TRIAL

You must decide this case ***solely*** on the evidence and your own observations, experiences, reason, common sense, and the law in these Instructions. You must also keep to yourself any information that you learn in court until it is time to discuss this case with your fellow jurors during deliberations. Thus, to ensure fairness, you must obey the following rules:

First, do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial is over.

Third, when you are outside the courtroom, do not let anyone tell you anything about this case, anyone involved with it, any news story, rumor, or gossip about it, or ask you about your participation in it until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.

Fourth, during the trial, you should not talk to any of the parties, lawyers, or witnesses—even to pass the time of day. It is important that you do justice and also maintain the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side—even to pass the time of day—a suspicion about your fairness might arise. If any lawyer, party, or witness does not speak to you, it is because he or she is not supposed to talk to you, either.

Fifth, it may be necessary for you to tell your family, friends, teachers, co-workers, or employer about your participation in this trial, so that you can explain

when you are required to be in court and warn them not to ask you about this case, tell you anything they know or think they know about this case, or discuss this case in your presence. You must not communicate with anyone about the parties, witnesses, participants, claims, evidence, or anything else related to this case, or tell anyone anything about the jury's deliberations in this case until after I accept your verdict or until I give you specific permission to do so. During the trial, while you are in the courthouse and after you leave for the day, do not provide any information to anyone by any means about this case. Thus, for example, do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, Blackberry, PDA, computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, blog, or website such as Facebook, MySpace, YouTube, or Twitter, to communicate to anyone any information about this case until I accept your verdict.

Sixth, do not do any research—on the Internet, in libraries, in the newspapers, or in any other way—or make any investigation *about this case* on your own. Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony. Also do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the judge.

Seventh, do not read any news stories or articles, in print, on the Internet, or in any "blog," about this case, or about anyone involved with it, or listen to any radio or television reports about it or about anyone involved with it, or let anyone tell you anything about any such news reports. If you want, you can have your

spouse or a friend clip out any stories and set them aside to give you after the trial is over. I assure you that when you have heard all the evidence, you will know more about this case than anyone will learn through the news media—and it will be more accurate.

Eighth, do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence during deliberations.

Ninth, as we discussed in jury selection, growing scientific research indicates each one of us has "implicit biases," or hidden feelings, perceptions, fears, and stereotypes in our subconscious. These hidden thoughts often impact how we remember what we see and hear and how we make important decisions. While it is difficult to control one's subconscious thoughts, being aware of these hidden biases can help counteract them. As a result, I ask you to recognize that all of us may be affected by implicit biases in the decisions that we make. Because you are making very important decisions in this case, I strongly encourage you to critically evaluate the evidence and resist any urge to reach a verdict influenced by stereotypes, generalizations, or implicit biases.

Tenth, if at anytime during the trial you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer, who will give it to me. I want you to be comfortable, so please do not hesitate to tell us about any problem.

I will read the remaining two Instructions at the end of the evidence.

INSTRUCTION NO. 13 - DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. *Your verdict on the charge against the defendant must be unanimous*. It is your duty to consult with one another and to deliberate with a view to reaching agreement if you can do so consistent with your individual judgment. You must not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinions of other jurors or for the mere purpose of returning a verdict. Each of you must decide the case for yourself; but you should do so only after consideration of the evidence with your fellow jurors.

In the course of your deliberations you should not hesitate to re-examine your own views, and to change your opinion if you are convinced that it is wrong. To bring twelve minds to an unanimous result, you must examine the questions submitted to you openly and frankly, with proper regard for the opinions of others and with a willingness to re-examine your own views.

Remember that if, in your individual judgment, the evidence fails to establish the defendant's guilt beyond a reasonable doubt on the offense charged against him, then he should have your vote for a not guilty verdict on that offense. If all of you reach the same conclusion, then the verdict of the jury must be not guilty for the defendant on that offense. The opposite also applies for you to find the defendant guilty. As I instructed you earlier, the burden is upon the prosecution to prove beyond a reasonable doubt every essential element of an offense charged against the

defendant, and if the prosecution fails to do so, then you cannot find the defendant guilty of that offense.

Remember, also, that the question before you can never be whether the prosecution wins or loses the case. The prosecution, as well as society, always wins, regardless of whether your verdict is not guilty or guilty, when justice is done.

Finally, remember that you are not advocates; you are judges—judges of the facts. Your sole interest is to seek the truth from the evidence. You are the judges of the credibility of the witnesses and the weight of the evidence.

You may conduct your deliberations as you choose. However, I suggest that you carefully consider all of the evidence bearing upon the questions before you. You may take all the time that you feel is necessary.

There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial, or competent jury would be selected to hear it. Any future jury must be selected in the same manner and from the same source as you were. If you should fail to agree on a verdict, the case is left open and must be disposed of at some later time.

INSTRUCTION NO. 14 - DUTY DURING DELIBERATIONS

There are certain rules that you must follow while conducting your deliberations and returning your verdict:

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, if the defendant is guilty of the charged offense, then the sentence to be imposed is my responsibility. You may not consider punishment of the defendant in any way in deciding whether the prosecution has proved its case against him beyond a reasonable doubt.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible, either in writing or orally in open court. *Remember that you should not tell anyone—including me—how your votes stand numerically*.

Fourth, your verdict must be based solely on the evidence and on the law in these instructions. You must return a unanimous verdict on the charge against the defendant. Nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.

Fifth, in your consideration of whether the defendant is not guilty or guilty of the offense charged against him, you must not consider his race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against the

defendant on the charged offense unless you would return the same verdict on that charge without regard to the defendant's race, color, religious beliefs, national origin, or sex. To emphasize the importance of this consideration, the verdict form contains a certification statement. Each of you should carefully read the statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects the manner in which each of you reached your decision.

Sixth, I am giving you the verdict form. A verdict form is simply the written notice of the decision that you reach in this case. You will take the verdict form to the jury room. *Again, you must return a unanimous verdict on the charge against the defendant*. When you have reached a unanimous verdict on the charge against the defendant, your foreperson must complete one copy of the verdict form, and all of you must sign that copy to record your individual agreement with the verdict and to show that it is unanimous. The foreperson must bring the signed verdict form to the courtroom when it is time to announce your verdict. When you have reached a verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

DATED this 23rd day of February, 2010.

Mark W. Bennett

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. JAMECO BELL, Defendant.	No. CR 09-4033-MWB **VERDICT FORM**

As to defendant Jameco Bell, we, the Jury, unanimously find as follows:

MARIJUANA CONSPIRACY		**VERDICT**
Step 1: Verdict	On the "marijuana conspiracy" offense, as charged in the Indictment and explained in Instruction No. 3, please mark your verdict. (*If you find the defendant "not guilty" of this offense, do not answer the questions in* ***Steps 2, 3, and 4****. Instead, read the "Certification" below, sign the verdict form, and notify the Court Security Officer (CSO) that you have reached a verdict.*)	____ Not Guilty ____ Guilty

Step 2: Objective(s)	*If you found the defendant "guilty" of the "marijuana conspiracy" offense charged in the Indictment*, please indicate which one or more of the following were objectives of the "marijuana conspiracy."
	_____ (a) distributing marijuana
	_____ (b) possessing with intent to distribute marijuana
Step 3: Quantity of marijuana	*If you found the defendant "guilty" of the "marijuana conspiracy" offense charged in the Indictment*, please indicate the quantity of marijuana involved in this offense for which he can be held responsible. (*Quantity of marijuana is explained in Instruction No. 4.*)
	___ 100 kilograms or more of marijuana
	___ 50 kilograms or more of marijuana mixture
	___ less than 50 kilograms of marijuana mixture
CERTIFICATION	
By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the charged offense regardless of the race, color, religious beliefs, national origin, or sex of the defendant.	

_____
Date

_____ _____
Foreperson Juror

_____ _____
Juror Juror

_____	_____
Juror	Juror
_____	_____
Juror	Juror
_____	_____
Juror	Juror
_____	_____
Juror	Juror